

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

WIN INSURANCE SERVICES, LLC AS
SUCCESSOR TO DZ BANK AG DEUTSCHE
ZENTRAL GENOSSENSCHAFTSBANK,

Case No. 09-CV-12572

Plaintiff,

Claim: \$207,433.28

v.

Breach of Contract

RODNEY M. JEFFERSON,

Defendant.

PEAR SPERLING EGGAN & DANIELS, P.C.

BY: Laura A. Rickloff (P70918)
Kevin N. Summers (P34458)

Attorneys for Plaintiff
1349 S. Huron Street, Suite 1
Ypsilanti, Michigan 48197
(734) 483-3626

ASKOUNIS & DARCY, PC

BY: Alex Darcy
Co-Counsel for Plaintiff
401 N. Michigan Street, Suite 550
Chicago, Illinois 60611
(312) 784-2400

FIRST AMENDED COMPLAINT

NOW COMES Plaintiff WIN Insurance Services, LLC, ("WIN"), by and through its attorneys and for its First Amended Complaint against Defendant Rodney M. Jefferson ("Jefferson" or "the Defendant"), states as follows:

PARTIES

1. WIN is an Arizona limited liability company that operates its principal place of business at 3485 N Academy #203 Colorado Springs, CO 80917.

2. On information and belief, Jefferson is a Michigan resident, residing at 12201 Blackberry Creek, Burton, Michigan 48519.

JURISDICTION AND VENUE

3. Jurisdiction is appropriate in this Court pursuant to 28 U.S.C. §1332(a)(2). The parties are citizens of a State and citizens or subjects of a foreign state and the amount in controversy exceeds \$75,000.00 exclusive of interest and cost.

4. Venue is appropriate in this Court pursuant to 28 U.S.C. §1391(a) because a substantial part of the events or omissions giving rise to WIN's claim occurred in this district and because the Defendant is subject to personal jurisdiction in this district.

BACKGROUND

5. On April 28, 2006, Brooke Credit Corporation (now known as Aleritas Capital Corporation) ("BCC") and Jefferson executed a Promissory Note, Loan No. 5164 (the "Original Loan"), in which BCC agreed to loan Jefferson \$132,000.00

6. On December 27, 2007, BCC and Jefferson executed a Promissory Note, Loan No. 6735, whereby BCC agreed to refinance the Original Loan in the amount of \$212,944.70, plus interest at the rate of 3.5% above the Prime Rate as published in *The Wall Street Journal*, adjusted daily (i.e., the day after each change of the published Prime Rate). A true and correct copy of the Loan as well as an Agreement for Advancement of Loan (collectively, the "Loan") is attached hereto as Exhibit 1.

7. BCC assigned the Loan to Brooke Credit Funding, LLC ("BCF") and BCF pledged the Loan to its lenders as security.

8. BCF's senior secured creditors are DZ Bank AG Deutsche Zentral-Genossenschaftsbank ("DZ Bank") and Autobahn Funding Company, LLC ("Autobahn"). By

written agreement, Autobahn appointed DZ Bank as its agent, authorizing DZ Bank to enforce its rights under the Loan in DZ Bank's name.

9. BCF defaulted on its obligations to DZ Bank.

10. On October 30, 2008, DZ Bank, BCC, and BCF entered into a Surrender of Collateral, Consent to Strict Foreclosure, Release and Acknowledgment Agreement (the "Surrender of Collateral"). A true and correct copy of the Surrender of Collateral is attached hereto as Exhibit 2. The Loan is included in the Surrender of Collateral.

11. On October 31, 2008, DZ Bank and BCF entered into an Omnibus Assignment Agreement whereby BCC further confirmed that DZ Bank has full ownership of BCF's rights as BCC's assignee under the Loan. A true and correct copy of the Omnibus Assignment Agreement is attached as Exhibit 3.

12. On June 29, 2009, DZ Bank as Autobahn's agent, sold all of its right, title and interest in the Loan to WIN.

13. Jefferson defaulted under the Loan by failing to make payments when due.

14. Despite demands made on Jefferson for the outstanding balance of \$207,433.28, Jefferson failed and refused to pay the same.

15. Pursuant to the Loan, WIN is entitled to \$207,433.28, plus attorneys' fees, costs and interest.

16. The Loan is governed by the laws of the State of Kansas.

COUNT I
BREACH OF CONTRACT

17. WIN realleges and reasserts Paragraphs 1 through 16 of its Complaint as though fully set forth in Paragraph 17 of its Complaint.

18. Due to Jefferson's default under the Loan, WIN has been damaged in the amount of \$207,433.28, plus attorneys' fees, costs and interest.

WHEREFORE Plaintiff WIN Insurance Services, LLC prays that judgment be entered against Defendant Rodney M. Jefferson, individually, in the amount of \$207,433.28, plus attorneys' fees, costs and interest, as well as all other relief which this Court deems just.

Respectfully submitted,

PEAR SPERLING EGGAN & DANIELS, P.C.

Date: September 4, 2009

BY: Laura A. Rickloff (P70918)

Kevin N. Summers (P34458)
Pear Sperling Eggan & Daniels, P.C.
Attorneys for Plaintiff
1349 S. Huron Street, Suite 1
Ypsilanti, Michigan 48197
(734) 483-3626
lrickloff@psedlaw.com
ksummers@psedlaw.com

Co-Counsel For Plaintiff:

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401 N. Michigan Street, Suite 550
Chicago, Illinois 60611
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adarcy@askounisdarcy.com